

503.570-2 Contract clause.

Insert the clause at 552.203-71, Restriction on Advertising, in solicitations and contracts, including acquisitions of leasehold interests in real property, if the contract amount is expected to exceed the simplified acquisition threshold.

Subpart 503.7—Voiding and Rescinding Contracts

503.702 Definition.

Notice means a letter sent by certified mail with a return receipt requested to the last known address of a party, its counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt is presumed.

Voiding and rescinding official means the Senior Procurement Executive or designee.

503.705 Procedures.*(a) Contracting officer's actions:*

(1) If a contract is tainted by misconduct, consult with assigned counsel to determine if the Government has a common law remedy such as avoidance, rescission, or cancellation.

(2) If the contractor has a final conviction for a violation under 18 U.S.C. 201-224, you may refer the matter to the voiding and rescinding official under FAR 3.705.

(i) In the referral, identify the final conviction and include the information required by FAR 3.705(d)(2) through (5).

(ii) Coordinate the referral with the Office of Inspector General to determine whether to recommend debarment.

(3) You may postpone a decision to exercise the Government's common law right to void, rescind, or cancel a contract until completion of legal proceedings against the contractor.

(b) Voiding and rescinding official's actions:

(1) The voiding and rescinding official reviews the referral and coordinates with assigned counsel and the contracting activity.

(2) If the official decides to declare void and rescind a contract and to recover the amounts expended and the property transferred, the official takes both the following actions:

(i) Issues the notice required by FAR 3.705.

(ii) Conducts the hearing contemplated by FAR 3.705(c)(3).

(3) In case of a dispute of material fact about the agency decision, the official refers the matter to the fact-finding official designated by the Chairman of the GSA Board of Contract Appeals. The voiding and rescinding official makes this referral if the dispute of fact relates to any of the following:

(i) Contracts affected by the final conviction.

(ii) Amounts expended and property transferred by the Government under the affected contracts.

(iii) Identity and value of any tangible benefits received by the Government under the affected contracts.

(4) The voiding and rescinding official issues GSA's final decision under FAR 3.705(e) after receiving the fact-finding official's report, if a referral was made. The voiding and rescinding official may reject the fact-finding official's findings only if they are clearly erroneous or arbitrary and capricious.

(5) The official coordinates the final decision was the contracting activity and provides the activity a copy of the decision.

(c) Fact-finding official's actions: The fact-finding official takes all the following actions:

(1) Gives the contractor an opportunity to dispute material facts.

(2) Conducts the proceedings under rules consistent with FAR 3.705(c)(3).

(3) Schedules a hearing within 20 calendar days after receiving the referral. The official may grant extensions for good cause at the request of the contractor or GSA.

(4) Delivers written findings of fact to the voiding and rescinding official (together with a transcription of the proceeding, if made) within 20 calendar days after the hearing record closes. The findings must resolve any material disputes of fact by a preponderance of the evidence.